S.B. CIVIL MISC. APPEAL NO. 1924/2006.
(Smt.Anju Devi & Ors. Vs. Kailash Chandra & Ors.)

Date of Order :: 12th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Manish Pitaliya, for the appellants.

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Having heard learned counsel for the appellants and having perused the impugned award, this Court is satisfied that in this case the award of compensation as made by the Tribunal in the sum of Rs.7,45,000/- together with interest at the rate of 6% per annum from the date of filing of claim application rules out any scope for enhancement and this appeal by the claimants does not merit admission.

Claiming compensation, the wife, minor children and parents of the vehicular accident victim Mahesh Kumar Garg submitted that the deceased was 27 years of age and was working as Manager with Sumit Syntax Pvt. Ltd. and another firm named as M.R.C.D. and was getting salary from the said establishments at Rs.8,000/- per month and Rs.3,000/- per month respectively; and that he was earning further Rs.4,000/- per month by way of commission in cloth dealings.

The Tribunal took the age of deceased at 30 years with reference to the postmortem report and for want of any other proof of his date of birth. On the earnings of the deceased, the Tribunal noticed that his income was shown at Rs.56,164/- in the accounting year 1999-2000 with reference to the income tax return Ex.13 and the statement of income Ex.14; at Rs.56,500/- in the accounting year 2000-2001 with reference to the income tax return Ex.15 and the statement of income Ex.16; and at Rs.56,930/- in the accounting year 2001-2002 with reference to the income tax return Ex.17 and the statement of income Ex.18. The Tribunal found that for three years before his death, the victim filed the aforesaid returns showing his yearly income respectively at Rs.56,164/-, Rs.56,500/- and Rs.56,930/- but then, the claimants filed his return in relation to the accounting year 2002-2003 (Ex.9) and therein his income was shown at Rs.1,21,889/- and such assertion on income was sought to be supported by salary certificates Ex.10, 11 and 12. The Tribunal observed that the said certificates were bereft of relevant particulars about the period for which they were issued; and the assertion of income for the accounting year 2002-2003 just double than the previous three years was not accepted being wholly unreliable. The Tribunal put an estimate on the income of the deceased at about Rs.60,000/- per annum and deducting

one-third therefrom, took loss of contribution for the claimants at Rs.40,000/- per annum and then, with maximum side multiplier of 18, assessed pecuniary loss at Rs.7,20,000/-; and providing further Rs.20,000/- towards non-pecuniary loss and Rs.5,000/- towards funeral expenses, the Tribunal allowed total compensation in the sum of Rs.7,45,000/- and allowed interest at the rate of 6% per annum from the date of filing of claim application.

The considerations adopted by the Tribunal cannot be said to be suffering from any error of law or facts nor the amount awarded could be said to be low or insufficient. The assertion of income of the deceased at Rs.1,21,889/- in the return filed by the claimants being not compatible with the previous returns and being not supported by cogent and reliable documentary evidence has rightly been removed out of consideration. It is noticed that the claimants have not precisely shown the job on which the deceased was engaged in the said business concerns for which he was allegedly earning salary of Rs.11,000/- per month. The estimate on annual income at Rs.60,000/- as put by the Tribunal on the basis of three returns filed by the deceased cannot be said to be unjustified. Moreover, the Tribunal has applied maximum side multiplier of 18 though in view of higher multiplicand, the

Tribunal could have considered application of a multiplier lower than 18.

In the ultimate analysis, the award made by the Tribunal cannot be said to be low or inadequate so as to warrant interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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